

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF PUERTO RICO

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5
6 UNITED STATES OF AMERICA /

7 VS. / CR. 13-58 (ADC)

8 BRETT JONES THEOPHILIOUS /

9 -----/

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13 PRETRIAL CONFERENCE

14 Was held before the HONORABLE CHIEF JUDGE AIDA M.
15 DELGADO COLON on Wednesday, June 4, 2014.

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19 FOR THE GOVERNMENT:

20 MARSHAL MORGAN, AUSA

21
22 FOR THE DEFENDANT AS STANDBY COUNSEL:

23 JUAN HERNANDEZ LOPEZ DE VICTORIA, ESQ.
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1 THE CLERK: 13- 58 United States of America
2 versus Brett Jones set for Pretrial Conference. The
3 defendant is present and does not require the services
4 of the a court interpreter. For the government, Marshal
5 Morgan and for the defendant as standby counsel, Juan
6 Hernandez Lopez de Victoria.

7 AUSA MORGAN: We're ready to proceed.

8 MR. HERNANDEZ: Juan Hernandez Lopez de Victoria
9 here as standby counsel and we're ready to proceed.
10 Thank you for moving the hearing based on our request.

11 THE COURT: Good afternoon Mr. Jones.

12 THE DEFENDANT: There is a problem, again this
13 morning I was awakened and told that I had a hearing. I
14 would just need to see a copy of the notice that was
15 sent to me, so that I can verify that notice was sent.
16 But I am again surprised by the hearing being set
17 without my being given knowledge.

18 THE COURT: Well, the hearing, at least notice of
19 the purpose of the hearing you have since the last time
20 that you appeared before me. This was a scheduling done
21 at the last hearing. That scheduling had to be changed
22 because of the trial that I currently have, and I have
23 been trying for the past two weeks. Today, in order not
24 to delay the proceedings further we have made a space
25 within that trial to take care of this hearing. If you

1 have not been provided with a copy of the order in which
2 today's setting was made, you will be provided one. I
3 will ask my courtroom deputy to print one.

4 However, the purpose of the same is the one that
5 I originally informed to you in terms of the case
6 background, so that I can exchange this information with
7 you. As previously discussed and as reflected by the
8 record two other Judges have presided over this case.
9 They have disqualified themselves as part of the process
10 and at a given stage I know there was a mental
11 evaluation done, and a report was submitted. That upon
12 a finding of competency District Judge Cerezo proceeded
13 to allow you to represent yourself, and your
14 represented, or right now you have stand by counsel with
15 you with whom you may consult on legal issues and
16 matters and procedural aspects and even on legal
17 matters. I must say for purposes of the record that we
18 have received numerous pro se motions ---

19 THE DEFENDANT: I need to make a correction on
20 that, there is probably only one motion in the entire
21 group you are mentioning, an affidavit by rule and by
22 maxim is not a motion.

23 THE COURT: I didn't understand what you said by
24 rule and by what?

25 THE DEFENDANT: Maxim of law, it is not a motion,

1 but however the issue of this hearing and my not being
2 given notice, the Supreme Court has held that due
3 process requires at a minimum that an individual be
4 given a meaningful opportunity to be heard, prior to
5 being subjected to any significant deprivation. It says
6 that the hearing may not be required to be in a formal
7 setting but due process is subject to waiver that the
8 individual be given an opportunity to know before that
9 hearing, the rules say at least five days notice must be
10 given. I didn't have time to prepare the paperwork this
11 morning.

12 THE COURT: I see that you have a full table with
13 documents with you.

14 THE DEFENDANT: Exactly, but no preparation. This
15 is not suppose to be laid out this way, I was suppose to
16 have this already organized. If I had been given notice
17 of the hearing today, just the same as the hearing
18 scheduled for the 16th, then changed to the 15th of
19 April, I never received notice even of that being
20 changed. I was brought here on the 15th to an empty
21 courtroom, no notice, no nothing, showed up here only to
22 find out it was postponed.

23 THE COURT: The last time we met it was postponed
24 to give you precisely that, time to prepare for that
25 hearing.

1 THE DEFENDANT: For the 16th of April. However,
2 there was some requests made that it be changed from the
3 16 to the 15 and then that was cancelled, set for the
4 29, which was last week --

5 THE COURT: The 15 was of May, not of April.

6 THE DEFENDANT: Yes, of May. It was scheduled
7 originally for the 16.

8 THE COURT: That is so, the attorney for the
9 government had a conflict and it was changed. At the
10 time in which the motion was granted that was April 14,
11 I granted the motion and the hearing was scheduled for
12 May 29, 10 a.m.. From that day it was changed to today
13 because of the trial that I have.

14 THE DEFENDANT: What I am saying is no notice was
15 given to me of any of that. I had someone go to the
16 court website and printed up a copy of the Docket and by
17 printing up a copy of the Docket I was able to see those
18 things were done. I also noticed there were several
19 indication that there needed to be response and
20 opposition on any of the requests by the other side.
21 Couldn't respond or oppose to anything because nothing
22 was delivered to me. I am due the right to be present
23 and to be prepared. This is undue surprise, everybody
24 else is ready. I just heard Mr. Hernandez speak as to
25 granting the continuance, and allowing it to be held

1 this day. Nobody told me. I have also told the Court,
2 the District several times that the afternoon, the
3 amount of pain that I deal with on a daily basis makes
4 it more difficult because now the pain increases. So,
5 let's just say even my hand doing what it is doing right
6 now, is not done on purpose. The longer I go during the
7 day, the more problems I have physically. We're now
8 after 2:00 p.m. and I know I have told everyone that
9 after 2:00 it gets more and more difficult. This right
10 here happening with my hand is not being done on
11 purpose.

12 THE COURT: Let me see if I can clarify a couple
13 of things. Now that you address the issue of your pain
14 you mention that you experience a lot of pain and I
15 don't know exactly if you have been diagnosed with a
16 particular condition, but it seems from your pleadings
17 and motion on record, that your proposal, if I read them
18 right, is if there is a trial that you will be
19 requesting that those be morning sessions because in the
20 afternoon hours you understand that you cannot perform
21 well and you're in pain, is that correct?

22 THE DEFENDANT: You have a copy of the doctor, it
23 has been sealed as of last year of the month of May, I
24 believe the 25 where he sent notice confirming the
25 muscular dystrophy, chronic neck and back pain and the

1 other symptoms that go along with that, including
2 chronic fatigue and fibromyalgia.

3 THE COURT: And you are requesting morning
4 sessions of the trial because those are the hours that
5 you can perform well.

6 THE DEFENDANT: What I am saying is that the
7 disabilities that I have, requires that, requires that
8 there be access to that, based on my disabilities.

9 THE COURT: You are requesting accomodation. I
10 get that. That is one thing. The other thing is that
11 even if you understand that you may need time to
12 respond, what I would like you to be aware is that as a
13 presiding Judge in this case I have the duty and
14 responsibility to make sure if you're making and
15 submitting a request and intend to represent yourself,
16 that you really know what you are being exposed to.
17 That you understand the penalties to which you're
18 exposed. That you understand there are rules and
19 procedures that must be followed and that were you to be
20 allowed to proceed and represent yourself, there might
21 be things that were done incorrectly, you might be
22 incriminating yourself and you might be exposing
23 yourself to be hurt through the outcome of the case.
24 Because once you undertake that responsibility the Court
25 has no duty or responsibility to defend or give you

1 particular advice in how to litigate the case and what
2 strategic measures to take. For that you would need
3 counsel or to be consulting with standby counsel. That
4 is why I wanted, even if you are requesting or you
5 decide to request for time to react to that, I need to
6 make sure that you understand. Before I accept any sort
7 of waiver of request and I told you that I intended to
8 revisit the determination previously made. It is my
9 understanding that what the law requires is that I
10 indulge every reasonable presumption against the waiver
11 of right to counsel and that I have to investigate
12 thoroughly the fact that you may do so, and that you are
13 fully aware of those consequences. Do you understand
14 that Mr. Jones?

15 THE DEFENDANT: I have understood that I have
16 mentioned from day one that I do not need counsel. That
17 I fully get exactly what it is that I am doing when I
18 speak on behalf of myself. If I needed counsels
19 assistance then I would have asked for things like
20 counsel to have the subpoenas issue that I have been
21 trying to get done, I have blank subpoenas here today.
22 That has not happened.

23 THE COURT: That is another thing that I wanted to
24 discuss with you. I will request that you allow me to
25 explain this to you now that you have mentioned the

1 subpoenas and when we talk procedure, this is part of
2 what I need you to understand, that there are
3 procedures.

4 THE DEFENDANT: What I am trying to tell you, you
5 asked me a question.

6 THE COURT: I have not asked you any other
7 questions. I intend to go into what was your answer.
8 Listen to me. What I intend to do is explain and advise
9 you, I have in the file as well some of the subpoenas
10 that you intended to issue or have issued while the case
11 was pending before the other Judges. And I saw that one
12 of the things that you intended to do was to subpoena
13 the presiding Judges in the procedure to appear as
14 witnesses in your case. One of the things that I must
15 alert you is that in the procedure of trial you will be
16 allowed to subpoena witnesses that you understand may
17 have factual information to support your theory of
18 defense. But you cannot subpoena the presiding Judge
19 who has no knowledge about the facts of the case. Can
20 you understand that?

21 THE DEFENDANT: What happens is that you are
22 correct when you mention that I get to subpoena someone
23 who has knowledge about the facts of the case.
24 Especially since I am challenging the Statute,
25 especially since I am challenging jurisdiction.

1 Especially I am bringing up the issue of Statute is not
2 law, and ---

3 THE COURT: That a Statute is not law?

4 THE DEFENDANT: The only one that is capable of
5 answering those legal questions, as Marcos Lopez clearly
6 explained in the original Probable Cause hearing, is
7 someone versed in law.

8 THE COURT: But I need you to understand that the
9 trial is not to discuss the law. The law has been
10 approved by Congress, it is deemed to be Constitutional
11 unless you are presenting a Constitutional challenge to
12 the Statute, that requires a legal determination. But
13 the law as it is right now, that is presumed to be
14 Constitutional. What it requires is that in the trial
15 the government will have the burden of presenting
16 evidence to establish that you have failed to register
17 as required by Statute, and the jury will have to decide
18 whether you failed or not. That is a factual issue. So
19 any opinion that Magistrate Judge Lopez may have,
20 personally or professionally as to the law, is totally
21 irrelevant.

22 THE DEFENDANT: I am not talking about an opinion
23 that he had. Marcos Lopez explained that a lay person
24 could not read law from the witness stand. I anticipated
25 he would say that. However, we are challenging the

1 Constitutionality of that Statute. We are also
2 challenging the jurisdiction issue.

3 THE COURT: How is it that the testimony of Judge
4 Lopez or Judge Cerezo or Judge Garcia will be relevant?

5 THE DEFENDANT: Let me finish if you don't mind.
6 We are challenging whether or not someone can actually
7 enforce a Statute from the bench and still maintain
8 judicial power. So all of these issues, and their
9 testimony, I have no idea what their testimony would be,
10 until we do the depositions. Those are not the only
11 witnesses. The witness who got on the witness stand for
12 the government he actually said there were conversations
13 had with the Castaner Police Department, that I went
14 into the facility and that there was a conversation but
15 there was nobody there that speaks English and I had
16 supposedly gotten upset. I think that the affirmative
17 defense would be prying for such a thing, since it shows
18 there was an attempt made. So there are no mistakes
19 being made on my part, I know exactly what I am aiming
20 at. So what I need is for the subpoena to be issued.
21 Judge Cerezo reminded the State if they wanted to
22 challenge the subpoena, they had to wait till they were
23 issued first before they could challenge and have them
24 quashed.

25 THE COURT: In the trial procedure, and this is

1 why it is so important that you understand who you can
2 subpoena and who you cannot, the government can
3 challenge the relevance of given testimony, and the
4 government can even ask for proffers on what that
5 testimony will be. If the Court, that means if I
6 understand those are irrelevant I may strike those
7 witnesses and not allow them to testify. Then I imagine
8 your assertion will be that you have been deprived of a
9 fair trial. That is why it is important that you
10 understand there are rules of procedure and rules of
11 evidence that controls what can be and what cannot be
12 presented during a trial in a court of law.

13 THE DEFENDANT: I think Judge Cerezo put it quite
14 well, she told the government that their requesting to
15 quash the subpoena was premature. Especially when she
16 said they had not been issued. So it would be premature
17 for anybody to assume where I am angling at, because
18 that is not privy to anybody. I am suppose to have
19 defensive strategy options available to the defense.

20 THE COURT: Usually that is the way in which it
21 happens. But you, against what you are right now
22 stating, and against what procedurally one would expect,
23 you have placed forward the names, the subpoenas, people
24 that you intend to bring to court. More so I have here
25 that have not been filed on the record, though a couple

1 of them have been filed, there are 26 letters here from
2 different sections and parts of the nation, going from
3 California, Chicago, Texas, Los Angeles, Georgia,
4 Florida, California, New Mexico, Melrose, Auburn,
5 California, Illinois. I have here 28 copies sent by
6 different individuals of the opening statement that you
7 intend to present at trial. That is against the
8 procedure because no one publishes or circulates an
9 opening statement. More so I can tell you, and this is
10 not an issue that I as a presiding Judge would like to
11 prejudge your strategy, but there are things here that
12 have nothing to do with the legal controversy at trial.
13 Have nothing to do with the facts. And there is a lot
14 of rambling on issues that are prima facie as stated
15 here, irrelevant. That creates and raises flag for me
16 that there is a huge need that you, that it is important
17 that you receive legal advice and help.

18 THE DEFENDANT: May I ask, are any of those from
19 me?

20 THE COURT: All of those are addressed to me, and
21 I must mention they were received in my chambers for the
22 period of time between August 21, and September 19, 2013
23 before I became the presiding Judge on April 4, 2014.
24 And this --

25 THE DEFENDANT: The reason why I asked--

1 THE COURT: You have been publishing and
2 circulating your opening statement during the time that
3 the case was assigned to Judge Cerezo and Judge Garcia.

4 THE DEFENDANT: The reason why I ask are any of
5 those from me, is because I have no clue what you are
6 holding up, I have not received a copy of any of those.
7 I have no idea what is in those items that you are
8 talking about.

9 THE COURT: All of those are filed on your behalf,
10 and --

11 THE DEFENDANT: That may be the case, however I do
12 not have a copy.

13 THE COURT: And all of those are being addressed
14 to my office, addressed to me, not to you. So, of
15 course you have not received those, because they have
16 not been mailed to you.

17 THE DEFENDANT: What I am saying is I cannot
18 comment on that.

19 THE COURT: I am not asking you to comment.

20 THE DEFENDANT: You are insisting to indicate that
21 you are going to use that information against me, and I
22 have to be notified.

23 THE COURT: Those letters begin by saying, "Dear
24 Honorable Aida Delgado Colon, attached is the proposed
25 opening statement that Brett Jones will be delivering to

1 the Court when his legal and Constitutional rights are
2 observed and he is given a trial in your court. My
3 intention is to insure that you focus your attention on
4 the attached document". And then of course there is a 7
5 page document of the intended, purported or projected
6 opening statement.

7 THE DEFENDANT: I must object, even to the point
8 of your reading that on the record, especially when
9 neither side has a copy of what you just read.

10 THE COURT: I am pulling out one, because all of
11 those copies are exactly the same. Make that available
12 to Mr. Jones.

13 THE DEFENDANT: I would ask that a copy be made
14 available to the government as well.

15 THE COURT: A copy will be provided to the
16 government as well. I can pull any of those, all the
17 documents are exactly the same. Two of those for some
18 unexplained reason reached the Clerks office and were
19 filed on the record, reason for which defense counsel
20 has one as well.

21 AUSA MORGAN: Regarding that document Your Honor,
22 it may be may be worth investigating if that document
23 was made part of the record of the 161 documents that
24 are included in the document. I vaguely remember
25 something quite a long time ago maybe actually making it

1 to the record on that. The actual opening statement.

2 THE DEFENDANT: My objection was not regarding
3 whether or not it is in the record, my objection is the
4 fact that each one of the letters I don't have a copy of
5 and so I have no idea of that.

6 THE COURT: If it is on the record and you say you
7 have a copy of the record and copy of the docket you
8 must have seen that it was filed.

9 THE DEFENDANT: No, I do not. That was one of the
10 other points that I wanted to bring up. I receive every
11 once in awhile from the Clerk a page talking about
12 E-filing and Pacer and letting me know this has been
13 docketed. But I do not receive a copy of anything filed
14 into the record. And I have been, I don't know how many
15 times have I complained about it, I think it would be
16 too many to be sitting up here in recanting, and
17 reissuing the same words to this Court. That I have not
18 been provided service of any document that I am suppose
19 to be provided service of.

20 THE COURT: I have some separate letters here that
21 you have filed on behalf of other prisoners in other
22 cases as to which the Clerks office has issued a notice
23 demanding either that those must have a real signature,
24 a handwritten signature. That just by putting S/slash
25 name, that does not constitute an electronic or

1 authorized signature. And they are pleadings in cases
2 that you have filed before other Judges. There is a set
3 of pleadings that you filed in several criminal cases in
4 which I preside and in which other defendants are being
5 charged, and you sign as a witness. And it appears to
6 be individuals on whose behalf you have provided some
7 sort of legal assistance. The handwriting is the same,
8 the approach is highly similar, the issues being argued
9 are the same ones that you have in your opening as to
10 what is the law, what is the law of the land. You cite
11 to certain acts of Congress, you question the authority
12 of the Court ---

13 THE DEFENDANT: I would object to that as well.
14 You are saying that those documents are filed on behalf
15 of someone else, by me. I guarantee you, you have
16 nothing that you can offer as proof that I filed any
17 documents.

18 THE COURT: I said you signed as a witness. The
19 one that I am looking at. And prior to court orders
20 being issued, you have signed some of those originally
21 as counsel for those individuals. Now those documents
22 are reaching the court with an S/ slash and printed name
23 of the individual, that of course is the defendant or
24 the petitioner in the case.

25 THE DEFENDANT: I will have to object again, the

1 fact that I sign an affidavit as a witness is not
2 anything unusual. If you take a look at this case the
3 date would probably be the 28 of December, 2012. You
4 will see that the Officer for Homeland Security has a
5 document, an affidavit that he signed and there is a
6 witness signing his affidavit. That is not unusual when
7 it comes to an affidavit, having a witness signature.
8 What I will say is I will have to object to the
9 proceedings because even the conversation you are having
10 now, I have no knowledge of that. And again, I am
11 having a difficult time this afternoon.

12 THE COURT: In as much you requested a document,
13 in dockets 142, there is an affidavit that you signed
14 S/slash Brett Jones, private attorney in law. And I
15 don't think that you are a licensed attorney to be
16 signing in such capacity.

17 THE DEFENDANT: That is from Congress saying that
18 the private individual has a right to be a private
19 Attorney General. That is the United States Congress
20 who made that point. By the way I have put in every
21 document the case with Erns versus Simms, or Simms
22 versus Erns excuse me, and Swear versus the Board of
23 Examiners for the State of New Mexico, in 1948 where
24 Swear brought a lawsuit against the Board of Examiners
25 of the State of New Mexico, because they refused to give

1 him a license to practice law. The Supreme Court ruled
2 in that case, that no State may license the practice of
3 law, but however it is being done all the time. The
4 right to practice law is not one that can be licensed by
5 the Court nor by Congress. It is a common right, every
6 single person within the United States borders are
7 required to know the law. Ignorance of the law is no
8 excuse.

9 THE COURT: Those are two separate concepts and
10 one has nothing to do with the other.

11 THE DEFENDANT: What I am saying is if I call
12 myself a doctor of forestry, or a doctor of this, there
13 is no one that can challenge that, because I am not
14 claiming to be a doctor. It is just words on a paper.
15 Each one of those documents again ---

16 THE COURT: It so happens that in Federal Court to
17 be a practicing attorney you have to be a licensed
18 attorney admitted to practice and remain within good
19 standing in the bar. The times in which an individual
20 could just call himself an attorney and not be properly
21 licensed have long time elapsed. Actually what the law
22 tells me is that I have to be very sure that you
23 understand the law, the case, the procedures. What you
24 are exposing yourself to and that you can actually
25 defend yourself in a very coherent and reasonable way,

1 in which you will not be jeopardizing yourself. That is
2 what I am trying, the message I am trying to explain and
3 convey to you. I have to warn you of the dangers and
4 the disadvantages of self representation.

5 THE DEFENDANT: I am suggesting again is that I
6 have time to review the information such as what I am
7 looking at here. That I have time to review the
8 information so that I can be prepared for such a thing.
9 In our last hearing you mentioned that the competency,
10 when I said that I already been through this five times,
11 you told me that was whether or not the person, myself,
12 being competent to stand trial. Judge --

13 THE COURT: Do you understand, let me ask you, do
14 you understand the nature of the charges against you,
15 that you can tell me in your own words what is it that
16 the government is charging you with?

17 THE DEFENDANT: Again, what I was mentioning to
18 you about Sandra Lynch of of the First Circuit Court of
19 Appeals. She stated quite plainly because the statement
20 contained in complainant many motions concerned the
21 Judge that the complainant was not competent to
22 represent himself. That is the reason why the
23 competency evaluation was ordered. So again we already
24 had these questions over and over again. I am allowed
25 --

1 THE COURT: I am questioning competency in the
2 fact of whether you are aware and able to represent
3 yourself, I am not talking about mental competency.

4 THE DEFENDANT: You did in the last hearing. You
5 told me that is what it is for, that is why I am reading
6 this. So what I am required to have by law is a hearing
7 on that issue. The mental evaluation that I was
8 subjected to, the invasive procedure that I was
9 subjected to.

10 THE COURT: The invasive procedure?

11 THE DEFENDANT: I am required to have a hearing.
12 I am ----

13 THE COURT: I am not discussing your mental
14 competency, I am discussing whether you are competent
15 enough to defend yourself from the legal standpoint of
16 view. I will not discuss mental competency. If there
17 is an expert that evaluated you, I am not an expert in
18 the field, I will go with the expert assessment that you
19 are competent and can stand trial. My issue here is
20 different and that is one of the first things that I
21 would like to assure myself that you understand the
22 difference between the two things and leaving me with a
23 clear satisfaction that you you are.

24 THE DEFENDANT: You're not understanding what was
25 originally done. That same question asked now has been

1 asked now four times by four judicial officers.

2 THE COURT: I have the right to discharge my
3 responsibility and if there is a need I will ask the
4 same thing three times more.

5 THE DEFENDANT: That is why I raise the double
6 jeopardy issue. However, because the hearing was
7 scheduled without me being notified, I ask that it be
8 reset so that everybody is on the same page.

9 THE COURT: And I have told you that I don't have
10 a problem with you reacting at a later point if you
11 want. But I want to take advantage of this hearing of
12 what I told you what the purpose was, regardless of the
13 day. Since the original date in which I told you of the
14 purpose of the hearing and what I intended to do,
15 instead of less, you have had more time to prepare, and
16 you knew that when you were to be brought to court that
17 is what we were to discuss here. And it will be very
18 easy for you. You claim to be knowledgeable of the law
19 and you studied law for years. I want you to express in
20 your own terms what is it that you are being charged
21 with. What is the government alleging against you?

22 THE DEFENDANT: I will say again, I was not
23 prepared for this hearing. If I had been prepared then
24 I would have had all the papers prepared for this
25 hearing. I am now going on 3 o'clock --

1 THE COURT: So you're saying the Court cannot hold
2 proceedings beyond 3 o'clock?

3 THE DEFENDANT: What I am saying, because of my
4 health issues documented on the record, by a physician,
5 showing what type of pain this individual is going
6 through constantly and I have not received a single
7 ounce of medical treatment ---

8 THE COURT: I will repeat my same question. Are
9 you aware or not of what you are being charged with in
10 this case? I want a very simple lay term explanation.

11 THE DEFENDANT: I am aware that I am required by
12 law to have time for this hearing to prepare. I was not
13 given time.

14 THE COURT: I am telling you --

15 THE DEFENDANT: Plus an entire stack of envelopes
16 that are here ---

17 THE COURT: The entire stacks of letters which I
18 gave you a copy, not received as part of the record.

19 THE DEFENDANT: This is the first time I am
20 knowing about that and this hearing.

21 THE COURT: I am not questioning you on that
22 issue. And I am not making an issue of that. I am
23 posing a very simple procedural question, a matter on
24 which I would like to have some degree of confidence
25 that you are aware of. If you are aware of the nature

1 of the charges filed against you?

2 THE DEFENDANT: Yes, a Statute.

3 THE COURT: And for you to tell me what you are
4 being charged with.

5 THE DEFENDANT: Yes, a Statute and that is going
6 to be one of the defenses, issues on the time of trial.

7 THE COURT: What is it that that Statute charges?

8 THE DEFENDANT: Whether a Statute is law or not.
9 If you are asking me if I am aware of it and the
10 consequences, then we have to go back to the other
11 hearings where I have not only told them but put it in
12 writing to the Court. Right now I will have to remain
13 here and watch you guys go through the routine, because
14 right now I am not feeling very well. I have been
15 having trouble, and I have kidney and liver problems all
16 day. And it is not a good time.

17 THE COURT: Kidney and liver problems.

18 THE DEFENDANT: It is already documented in the
19 record. Part of muscular dystrophy is high creatinine
20 levels and the amount of pain that causes, it is
21 documented on the record.

22 THE COURT: If you cooperate with the process this
23 would have been simple, because all I am asking is
24 something that you can certainly answer in a very simple
25 way, if you understand and if you are aware ---

1 THE DEFENDANT: I am going to try it again. Right
2 now it is not a good time. I have warned, told, said,
3 not a good time. This is -- I would like to have my
4 right to be notified in advance recognized. I would
5 like to stop being ignored, especially when I say
6 certain people have not served documents on me that
7 should have been served. Or individuals have filed
8 stuff in the record claiming they are standby counsel
9 for me, claiming they are representing my interest or
10 even the individual sitting next to me, who stood up at
11 the last hearing and testified against me. But he is
12 suppose to be my standby counsel. Also this same
13 individual who is suppose to be contract under my power
14 of attorney and he gave information about our
15 conversation that I expressly told him that he was not
16 able to do. But he did it anyway, twice. He asked for
17 continuances when I said I do not wish to waive any
18 time. So what I am saying right now, is not a matter --

19 THE COURT: It seems right now, two times you have
20 been brought to court in an attempt to have the
21 proceeding go forward and two times you have been trying
22 to have the proceedings conducted on your own terms and
23 conditions and at the time you want and under the
24 scenario you want. Because I issued an order for you to
25 be given notice. Purpose of the hearing I advised you

1 personally the last time that you appeared before me.
2 You were told that the next hearing that was to be in
3 place, what the clear purpose and objective of that
4 hearing was to be. The fact that there was a resetting
5 from one day to the other does not change the scope or
6 purpose of the hearing.

7 THE DEFENDANT: But that day I showed up, I was
8 here. This gentleman was here with me and there was
9 nobody else in the room. No one, I was prepared that
10 day. I was not prepared this day.

11 THE COURT: You were prepared for the hearing a
12 week ago, but not today.

13 THE DEFENDANT: I had all of the papers with me, I
14 was going to be calling this young man as my witness to
15 testify on the stand. I have all the questions.

16 THE COURT: What do you think that your standby
17 counsel can testify in the case?

18 THE DEFENDANT: As to what I know about the law.
19 He is Associate Professor at the University so he will
20 be able to determine by his own expertise what the law
21 is and how I understand it.

22 THE COURT: Don't you think it would be a good
23 idea that an Associate Professor in the law at a law
24 school be assisting you in the process as your counsel?

25 THE DEFENDANT: What I thought would be a good

1 idea is that I am allowed to demonstrate what I know
2 about the law since that is the question of the Court.

3 THE COURT: But you are not here to demonstrate
4 what you know or give a class on a legal subject. You
5 are here to follow a procedure, in a sequence, facing
6 specific charges that are filed, not against a third
7 party, but against you.

8 THE DEFENDANT: And I have every right to have a
9 hearing based on the issue that you are asking me about
10 my knowledge of law. That individual who is Associate
11 Professor is in the best position to help express not a
12 class, nobody is trying to offer a class, but
13 demonstrate whether or not I have done everything that
14 every other attorney would have done.

15 THE COURT: That is like saying that you want your
16 standby counsel to stand right now and inform to the
17 Court whether you are legally prepared to defend
18 yourself in the case.

19 THE DEFENDANT: No. I didn't say that.

20 THE COURT: That is not the purpose of you calling
21 him as a witness?

22 THE DEFENDANT: No, it is not.

23 THE COURT: Then I certainly did not understand
24 what you said, and I would like to understand.

25 THE DEFENDANT: I will do it one more time, and my

1 voice gets like this when I am trying to handle a lot of
2 pain, the only way without medication to handle pain no
3 pain relievers, is for me to focus and tune it out and
4 it is becoming more difficult.

5 THE COURT: Okay, Mr. Jones, this is the
6 situation, to make sure there is no issue of delivery,
7 or no delivery or any other issues, I will continue the
8 same subject matter of this hearing and I hope that you
9 get to be prepared by then, and I will schedule it to
10 your advantage in the morning hours, in the next
11 available spot that I have which is June 23, a Monday,
12 at 9:30 a.m..

13 Meanwhile, rest assured and I am alerting you to
14 the fact that I am making a full analysis of all
15 documents on the record. I am factoring in your
16 responses to my questions here today. I think that the
17 record is clear that I have given you my opinion as to
18 what the purpose of the hearing is, and what is my legal
19 duty through that hearing in order to asses your ability
20 to defend yourself, to basically understand the
21 procedures, your commitment to follow those procedures
22 and that you will not be jeopardizing your cause nor
23 your rights during that trial. Believe me, if I am not
24 satisfied, it is my intention to follow the legal
25 command or instructions that I must presume that you

1 will be better off with counsel appointed by the Court.

2 I am alerting you as to that.

3 THE DEFENDANT: Can I ask you a question please?

4 THE COURT: Yes.

5 THE DEFENDANT: Would it not be my right to
6 determine whether or not I want to subject myself to the
7 consequences of my own actions?

8 THE COURT: You may argue that, but if along with
9 that you are not willing to abide by court procedures
10 and what the process entails, I think and I understand
11 that I have the authority to decide otherwise. And the
12 process will go then ahead within the setting that is
13 prescribed by law. Whether you are in agreement or not,
14 or whether I am mistaken or not is an issue you will be
15 able to take up to the Court of Appeals.

16 THE DEFENDANT: I have been accused of so many
17 different things, especially being a Sovereign American.
18 I have told people that I am a Jehovah witness, the
19 Bible acknowledges that he is the Sovereign of the
20 Universe. You can't have two sovereign. He cannot be
21 sovereign and I be sovereign at the same time. But I
22 have been accused of that and treated by these officers
23 and the ones at MDC as if I am some part of a movement.
24 I say again I am a Jehovah Witness, I cannot disrespect
25 these proceedings and I have not and will not. I am not

1 permitted to. My God commands that I obey the superior
2 authorities.

3 As far as procedures, I have noticed that several
4 things have not happened, such as the rules that say
5 that blank subpoenas are to be issued by the Clerk once
6 they receive them, with the correct information on them.
7 I sent them to the Clerk, they never sent them back. So
8 I asked the Court to send the subpoenas to the Clerk, to
9 order the Clerk to send a copy of the subpoena and never
10 received them. The rules of the court says that I am
11 suppose to be notified of filings by the government and
12 that they are suppose to serve a copy on me, and over a
13 year they served nothing. I understand the rules, I
14 understand the procedures.

15 The final thing that we have not determined is
16 the jurisdiction, be it over me, the subject matter and
17 so forth.

18 THE COURT: What is it that you want to determine
19 if there is jurisdiction?

20 THE DEFENDANT: What is the jurisdiction for this
21 particular matter and I need to know the jurisdiction of
22 the court over my natural person.

23 THE COURT: Probably the prosecutor can assist you
24 right now. They charged with you a Federal offense,
25 Federal violation described under the Federal penal code

1 that is why you have been brought here. There is a
2 Federal Statute that prohibits certain type of conduct
3 and requires person convicted of certain type of conduct
4 to register. Those are violations to those Statutes
5 what the government has alleged and pursuant to that,
6 your case is in Federal Court.

7 THE DEFENDANT: I need to know the specific name
8 for the jurisdiction. All you said I get, I understand.
9 I just need to know the specifics as to the
10 jurisdiction. You have like Judge Garcia, he said it
11 was Article 3, that he was an Article 3 Judge appointed
12 Carter, or by whoever, I don't know which president.
13 But when you look at Article 3 it says admiralty,
14 maritime. So I need to know the specific name of the
15 jurisdiction because that tells me the rules, procedures
16 and understanding which way to go. Because there are so
17 many jurisdictions out there --

18 THE COURT: Federal Courts are created under
19 Article 3 of the Constitution. And under that it says
20 that Congress can create all courts as need and the
21 Article 3 allows for the appointment of Judges that will
22 have Federal Jurisdiction. That means that they
23 understand issues of Federal law, Constitutional issues
24 and matters in which the government has claimed a
25 Federal interest. Whether it is interstate commerce,

1 different subject matter. That in the criminal field or
2 criminal arena if you want, that is when everything that
3 Congress enacted as a Criminal Statute, we have the
4 authority to deal and preside over those type of cases.

5 THE DEFENDANT: I understand that, I get that, I
6 understand Congress' legislative ability. There are
7 several other technical issues about that, but I
8 understand it. My question is, I need to know the
9 specific name of the jurisdiction and how that
10 jurisdiction is exercised over my natural person. Now,
11 the law says once jurisdiction is challenged it must be
12 proved to exist on the record. But I look at the record
13 and don't see any proof of jurisdiction, I see only
14 someone saying this is jurisdiction for the District
15 Court, for the District of Puerto Rico. But in my
16 research when I look up information on the District
17 whether it be the District of Columbia, DC, so forth, it
18 tells me that is a Municipal corporation, and that can
19 be found in the Act of June 11, 1878. But when I find
20 out the district is the Municipal corporation, and it is
21 a permanent seat of government of the United States, it
22 makes me wonder. So when I say that I have proof that
23 the District Court and the District is a corporation, I
24 am sent to a psyche evaluation by another Officer
25 because she says my questions seem to mention that I

1 might have a mental defect.

2 THE COURT: There are people that allude to the
3 Federal government in general as the great corporation.
4 But my question to you will be what do you allude to by
5 the Municipal corporation of 1878.

6 THE DEFENDANT: It is what the District code says.
7 When you look at section 22-3401 of the same code it
8 says any time the word District is used and it can only
9 be used, not be used by anyone because they only feel
10 like it, it can only be used by the approval of the
11 agencies and other instrumentalities of the District of
12 Columbia. It says it stands for the Municipal
13 government. So when we look at those nice little points
14 that the District code has and the fact that the U.S.
15 Code section 5 refers to the District and goes as far as
16 saying anyone is a District citizen if they domicil, if
17 they are physically present in the District.

18 THE COURT: When you challenge the jurisdiction
19 you understand that no Federal Judge has jurisdiction
20 and can preside over your case?

21 THE DEFENDANT: No, I am asking for them to prove
22 jurisdiction, I am not saying nobody has jurisdiction.
23 I am saying it now because it is not being proven. I am
24 saying now that it has not been proven so that they have
25 to prove it.

1 THE COURT: Who has the burden of proving that in
2 court, the Court?

3 THE DEFENDANT: There are several cases here, one
4 of them says it is the Courts duty, the other one says
5 it is the prosecutors duty to prove all of the
6 jurisdictional facts asserted on the record. So I am
7 asking that to be proven on the record. I don't think
8 that I am asking too much.

9 THE COURT: Usually when there is Federal
10 jurisdiction the government proves that as part of the
11 elements of an offense that requires the Federal
12 jurisdiction to be exercised. For example, carjacking
13 involves interstate commerce of a vehicle and that they
14 prove at the time of trial within the trial. They don't
15 prove that way before.

16 THE DEFENDANT: Here is one case, Latina versus
17 Hopper, 1012 F2d 188, Chicago versus New York, which
18 speaks on the same thing. Jurisdiction, the Court must
19 prove on the record all jurisdictional facts related to
20 the jurisdiction asserted. Then we have once
21 jurisdiction has been challenged, it must be proven.
22 Maine versus ---

23 THE COURT: I can tell you that if any
24 jurisdictional issues are raised the Court will have to
25 make a ruling as to that legal matter raised. But the

1 Court does not have to prove the jurisdiction. The
2 Court has no burden of proof.

3 THE DEFENDANT: The law requires that I bring up
4 these points in order to reserve them on appeal. But
5 the issue about whether or not jurisdiction has to be
6 proved, there are too many cases that says it has to be
7 proved. Without jurisdiction it is impossible for the
8 body to move forward. In the case, I have said that
9 case is Road Island versus Massachusetts, that says once
10 jurisdiction has been challenged it must be decided. It
11 says in order for the Court to move forward it has to
12 decide, because any movement by the Court would be in
13 excess of jurisdiction if they had not proved it. It is
14 a basic defensive argument, if that is for lack of a
15 better word, to bring up, is jurisdiction. But over a
16 year, a year and four months nothing shows on the record
17 what the jurisdiction is. So I would love for the
18 government to state exactly precisely what the
19 jurisdiction is and how it has jurisdiction over my
20 natural person.

21 AUSA MORGAN: It seems we are dealing with two
22 issues here. I think Mr. Jones is challenging the mere
23 existence of this Court to even be, in terms of that
24 jurisdiction. On the other hand the United States has
25 jurisdiction which it must demonstrate as an element of

1 the crime. In this particular section, the Sex Offender
2 Failure to Register Notification Act. Requires three
3 elements. I have to first prove Mr. Jones is an
4 individual required to register. Number two, that he
5 traveled in interstate or foreign commerce after
6 February, 2007. And that he knowingly failed to
7 register after travelling in interstate commerce. Those
8 are the elements that give us the United States
9 Attorneys Office and this Court the jurisdiction to
10 adjudicate this case.

11 Whether Mr. Jones is talking about the
12 jurisdiction or ability of this Court to even exist is
13 quite a different matter. And that I unfortunately
14 can't give you the citation to the law or from the
15 United States Constitution. But I submit to you that he
16 is raising more a question of the ability of this Court
17 to exist rather than a specific challenge. If there
18 were a specific challenge made to the ability of this
19 Court to exist then I would request that that challenge
20 be made so that I can appropriately address it. But
21 just simply raising the issue as a question is not
22 sufficient.

23 THE COURT: That is why I asked him whether he was
24 challenging the authority of the Court, that he replied
25 no, he just wanted to know jurisdiction over his natural

1 person. But I would have you go one step further and
2 provided information concerning the penalties by
3 Statute, to which Mr. Jones is exposing himself were he
4 to be found guilty.

5 AUSA MORGAN: Yes --

6 THE DEFENDANT: I have to object to that if you
7 don't minds. We discussed this at both arraignments and
8 second I am not challenging the existence of this Court
9 I am sitting here inside. Why would I want to challenge
10 that? I am not challenging the existence of the court.
11 I am actually challenging persona, jurisdiction, and
12 territorial and geographical and subject matter.

13 THE COURT: That is what the government tried to
14 explain to you. Because first of all what he said, as
15 elements of the offense he will prove that jurisdiction,
16 if he is able to establish that you are an individual
17 required by law to register. The fact that you, your
18 body is here in Puerto Rico will serve to show that you
19 traveled from the State in which you were either
20 convicted, where you used to reside, where you
21 originally registered, to the District of Puerto Rico by
22 seeking certifications from the Registry of Sex
23 Offenders in Puerto Rico, or they will get either a
24 positive or negative certification. If there is a
25 negative certification that will reveal and help the

1 government to prove before a jury the fact that upon
2 your arrival to Puerto Rico you failed to register as
3 required by Statute.

4 THE DEFENDANT: Now, again, none of that escapes
5 my notice. However, as I mentioned before, Rosemon
6 versus Lambert, the burden shifts to the Court to prove
7 jurisdiction.

8 THE COURT: I told you. The Court has no burden
9 at no point. If anyone has a burden of producing
10 evidence in a criminal case it is the government.

11 THE DEFENDANT: What I am saying is, it does not
12 appear on the record. That is all am asking is for
13 proof of jurisdiction appear on the record.

14 THE COURT: Let's assume and take it for granted
15 that as of today it appears on the record because it has
16 been stated, explained to you and taken down by the
17 Court reporter, and it has been explained to you in
18 legal and lay terms.

19 THE DEFENDANT: What I am listening for is the
20 precise name of the jurisdiction. There are many
21 jurisdiction. I mentioned territorial, persona, subject
22 matter and personal jurisdiction. Article 3 mentions
23 exactly the same thing. Congress was only given limited
24 legislative powers. Their jurisdiction was exclusive
25 and so forth. So I am looking for the precise wording.

1 THE COURT: One of the things that I need to
2 advise you when there is a criminal trial and the
3 government charges a given offense the government will
4 go at a time establishing the elements of the offense by
5 testimonial evidence, documents and anything they
6 understand is relevant evidence. The defendant has a
7 right to cross examine through counsel. When
8 represented by counsel. Were you to be representing
9 yourself I can alert you to the fact that you cannot
10 ramble or go around or go in circles about subject
11 matters or issues as to which you have a given conceived
12 notion but no legal basis for. I want you to be aware
13 that is one of the risks that you will be facing in the
14 process. Because once that process begins the
15 government can object and will I have to make a legal
16 determination as to whether the objection is to be
17 sustained. If sustained that will preclude you from
18 going forward in the same direction with the same topic.

19 THE DEFENDANT: I completely understand that but
20 if you notice I have not rambled. I have been very
21 specific with what I have been asking.

22 THE COURT: Well, but so far you have been
23 explained the concept and still you insist and demand
24 another degree of evidence of jurisdiction.

25 THE DEFENDANT: I am not making demands. What I

1 suggest is that be proved on the record is precisely
2 what the jurisdiction is. Not all of the elements of
3 it. No. The exact name, the exact precise nature of
4 the jurisdiction. Again I mentioned admiralty,
5 maritime, persona, there are so many jurisdictions out
6 there. For me to know it.

7 THE COURT: You think remotely this is a case that
8 has to do with admiralty?

9 THE DEFENDANT: Precisely what I am asking, so
10 that I am not dealing with so many other jurisdictions
11 trying to figure out where we are going.

12 THE COURT: Well, were you to have the necessary
13 legal knowledge you would be able to know which ones to
14 discard immediately, and which ones not to.

15 THE DEFENDANT: No, I would not, because I am
16 looking at that nice little flag over there with the
17 gold trim that the Attorney General in 1925 was done by
18 the President of the United States, at that time under
19 his Commander and Chief position. Commander and Chief
20 capacity. That does not signify anything other than
21 military. Because the Commander and Chief capacity is
22 what the Commander and Chief of the United States, the
23 President is to send people to war. So again I am
24 needing to know precisely the jurisdiction because there
25 are so many contradictions.

1 THE COURT: We're not here dealing with Executive
2 or Legislative powers, you are dealing with the
3 Judiciary Branch. And within the Judiciary when we talk
4 about the concept of jurisdiction it is within the legal
5 boundaries and legal matters that come to this court and
6 how they have access to court and how the persons have
7 access to court.

8 THE DEFENDANT: You have a seal right behind you,
9 says the United States District Court for the District
10 of Puerto Rico. When I look at DC code and it mentioned
11 Districts and how it includes all of the territories of
12 the United States, that again raises questions. So all
13 I am asking is questions.

14 THE COURT: What I am telling you is that the way
15 in which you challenge the evidence that the government
16 intends to bring as to each one of those three elements
17 that were listed to you, cannot be in the way you are
18 doing it here in court and you will not be able to go in
19 that way before a jury.

20 THE DEFENDANT: This is being done before trial,
21 because that is where it needs to be done. That is why
22 I raised it before trial. But after a year, nothing.
23 Again I need to know the precise jurisdiction, persona,
24 whatever the jurisdiction is, admiralty, maritime. I
25 need to know precisely which one it is. I need to know

1 how binding are the rules of the Court on this
2 individual, yourself and this individual. I have
3 access to the rules but I don't see people following
4 those rules and that is disturbing. I am looking for
5 the fairness that I am promised in the law.

6 THE COURT: You're not seeing the prosecutor
7 following the rules nor the standby counsel nor the
8 Court?

9 THE DEFENDANT: No, because he filed documents and
10 he filed documents, and have not sent me a single copy.
11 I have a Judge named Gustavo, that ordered counsel to
12 deliver things to me, and nothing. I have counsel
13 saying that he came to visit me at that location, MDC
14 Guaynabo, only that I didn't show up. But there are
15 cameras there. So I am asking to have the cameras
16 pulled so see how I was notified.

17 THE COURT: You're denying the fact that when
18 counsel asked for you, you refused to come down?

19 THE DEFENDANT: Most definitely.

20 THE COURT: Then I will make sure that I inquire
21 that certainly no personnel at MDC is giving counsel the
22 wrong message.

23 THE DEFENDANT: I don't want to do that now,
24 because when he said that day when he testified against
25 me, that he assumed that I refused to see him. So when

1 I cross examine him that is one of the points we're
2 going to bring up.

3 THE COURT: What stage do you understand, during
4 the trial, that you will be able to cross examine him?

5 THE DEFENDANT: No, not during the trial, during
6 the medical evaluation hearing.

7 THE COURT: I am not having that hearing, I have
8 told you. I am not discussing the psychiatric
9 evaluation. The psychologist understands you're
10 competent so it will be that way. My only assessment
11 will be whether you are aware, capable, and competent to
12 understand there are rules of procedure, rules of
13 evidence, there is a procedure for a trial, for the
14 orderly presentation of the evidence. For the reasoning
15 and what is the job of the prosecutor, your job as a
16 defense counsel, and your counsel as standby counsel and
17 what my duties and role are.

18 THE DEFENDANT: But doesn't everybody read the
19 Statute that says I am required to have a hearing? A
20 mental evaluation was done, contrary to anything that
21 was on the record --

22 THE COURT: That mental evaluation was done and
23 that is water under the bridge.

24 THE DEFENDANT: Sandra Lynch says that I am due
25 the very same hearing. I have a copy of her document

1 here. The law says that I am due a hearing on that.
2 The Judge ordered that because she said there was a
3 mental defect, based on certain comments made in
4 affidavits. Question, the law says that I am required
5 ---

6 THE COURT: Now I understand based on the record
7 you are not entitled to such a hearing, then my order
8 will be on the record and you will have a right to
9 appeal once the entire process is up there to the Court
10 of Appeals.

11 THE DEFENDANT: Okay. The last thing you
12 mentioned whether or not I understood everybody's
13 capacity. Everybody has not announce their capacities.

14 THE COURT: I mentioned in what capacity they are
15 here, the role they have in a court proceeding, in a
16 trial.

17 THE DEFENDANT: That is their capacity. And
18 everybody here has not established capacity. For
19 instance you come in and there is an announcer, that
20 announces everybody, says that I am appearing when the
21 definition for appearance in the legal dictionary is
22 once submitting to a jurisdiction. Once again I cannot
23 submit to something not on the record and because you
24 never announced your appearance leads me to wonder. So
25 I guess what I am saying is, I need to see everybody

1 following the same set of rules that I am following. I
2 see the rules of the court ---

3 THE COURT: What type of notice or appearance has
4 to be announced when I come to court?

5 THE DEFENDANT: I'm not saying that at all. I am
6 saying that the person that sits in the chair in every
7 single courtroom, this is not the first courtroom I have
8 been in, never tells who they are, what their capacity
9 is, what their position is. There is an announcer that
10 does it, in every place I go. But I don't see that in
11 the rules that says that the person gets to be
12 announced.

13 THE COURT: You understand when I come here I have
14 to say I am Judge Aida Delgado Colon, an Article 3 Judge
15 that will be presiding this case?

16 THE DEFENDANT: That would be more then
17 beneficial. But individuals ---

18 THE COURT: Consider notice has been given.

19 THE DEFENDANT: Individuals get mad because I
20 don't stand up. I said I don't have to, there is no
21 rule that says a person has to stand up because someone
22 walks into a room.

23 THE COURT: Every institution has its protocol,
24 that is simply a sign of respect and recognition that
25 there is a jurisdiction, an authority, presiding

1 individual. So that is part of it.

2 THE DEFENDANT: I promise you, with all my heart I
3 understand that, especially the respect part. I get
4 that. But I have officers getting mad at me, ordering
5 me here and telling me to stand up.

6 THE COURT: They are precisely officers of the
7 court, they recognize the Court authority and they would
8 like to see everybody in the same place doing the same
9 thing.

10 THE DEFENDANT: As I told them, there is no rule,
11 no law requiring that. Which means that there is no
12 officer of this court who can force one to do something.

13 THE COURT: And there is nothing that says that if
14 you truly recognize the Court authority, and you mean
15 and meant to be respectful, that you don't follow the
16 protocol because it does not jeopardize any of your
17 rights.

18 THE DEFENDANT: I never said it did.

19 THE COURT: However, you refuse to do so.

20 THE DEFENDANT: No, I'm saying it is not a
21 requirement. It is not that I refuse. I was waiting
22 for you standing up before you came in, but it took
23 awhile so I sat down. But I literally purposely stood
24 up at the table and they can vouch for that. I was
25 sorting all this out, but I did stand. The officers,

1 this gentleman and his supervisor they know if somebody
2 asks me to do something, I am willing to do it. They
3 simply asked me to do something the last time, they
4 asked me to do something, although I was not feeling
5 well that day, I said no problem.

6 THE COURT: Actually, is that what you told the
7 Marshal the last time when you were asked to stand up?

8 THE DEFENDANT: No, I told the supervisor the fact
9 that he ordered me to do something like that, I think
10 would help everybody understand. My parents had a hard
11 time, everybody knows me had a hard time. You can't
12 order me to do something, if you ask I will. But there
13 is something here with me and my personality.

14 THE COURT: In your head?

15 THE DEFENDANT: There is something here with my
16 personality that automatically says no. But if a person
17 asks me, I would walk ten thousand miles, I don't have a
18 problem. They asked me to do certain things, even
19 though in my heart I don't want to do it, I do it
20 because they simply asked. If the officer asked me
21 could you please, he didn't even have to use the word
22 please, as long as he asks me, I will do it. If you ask
23 me to stand up every time that you come in the room,
24 okay, I will do it. Especially if I give you my word.
25 All of this is not about that. I just need again we

1 speak of jurisdiction, I still have not heard anybody,
2 including Gregory Garcia state the precise jurisdiction.
3 I don't believe I am asking too much. I am challenging
4 the jurisdiction, not because I don't think that the
5 court exists, I am challenging the Statute because when
6 I read the case law it says that the Congress gave the
7 Attorney General the right to make it retroactive.
8 Congress cannot delegate its powers to another part of
9 the government, the Attorney General is part of the
10 Executive Branch. I have the Statute at large, the Act
11 of September 24, 1789 where at Attorney General position
12 was assigned originally. He is part of the Executive
13 Branch, he had no authority to make any law retroactive
14 because he cannot legislate. That is what I am
15 challenging. But I have the right to do that. In order
16 to do that there are going to be legal witnesses that
17 will have to testify. Since all of the expense thus far
18 have come out of my own pocket I have not been
19 reimbursed but he is being paid to be here. He is a
20 legal expert. As a matter of fact he is Associate
21 Professor, who could be a better legal expert. So I am
22 challenging the Statute and the Attorney General's right
23 to make the law retroactive.

24 THE COURT: Have you tried and attempted to
25 discuss the jurisdictional issue and everything with

1 your counsel?

2 THE DEFENDANT: Yes, I did. In the first meeting.

3 THE COURT: Then those answers should have been
4 answered by now.

5 THE DEFENDANT: No, they were not, sorry.

6 THE DEFENDANT: I get things like the Federal
7 Court has jurisdiction because this is Puerto Rico.
8 They have jurisdiction over Puerto Rico. I didn't ask
9 any questions of whether they had jurisdiction over
10 Puerto Rico.

11 THE COURT: I see. I can tell you this, if there
12 is any legal motion filed by the government, I will
13 request government to make sure that you send a copy to
14 Mr. Matos, asking for it to be considered legal mail and
15 delivered to Mr. Jones. Same thing from standby
16 counsel, any copies that you receive from the court be
17 sure they are delivered if any are issued by the court.
18 Same token, I will make sure that the copy is personally
19 delivered to Mr. Jones so that he has a guarantee and
20 assurance that those were to be delivered and meant to
21 be delivered and I hope are delivered in a timely
22 fashion.

23 You have the date, it is in the morning hours, so
24 if you talk about legal issues and reasonable
25 accomodation you got yours. The object and subject of

1 the hearing will continue to be the same. I want the
2 transcript of the proceedings prepared and be filed as
3 part of the record as well.

4 THE DEFENDANT: I apologize, this will be the
5 final thing that I will be mentioning. I have asked to
6 have all of the ones that weren't originally delivered
7 to me. Every document that he filed prior to December
8 11 that were never delivered to me, nor to the standby
9 counsel who never told me was standing by, I need to
10 have them stricken from the record because they were not
11 delivered to me.

12 THE COURT: Counsel, your court appointed?

13 MR. HERNANDEZ: Yes, but I was not the first one
14 that he was referring to. That was a prior standby
15 counsel.

16 THE COURT: Since you have access to the ECF
17 system, make sure that you have a copy of everything
18 filed by the government, and include the minutes of
19 proceedings held in court and make sure those are
20 delivered to Mr. Jones.

21 MR. HERNANDEZ: Very well. I was just asking him,
22 on May 20, myself personally within the mailbox of MDC
23 included a letter and the last discovery provided here
24 in open court.

25 THE COURT: I remember there was an order for that

1 to happen.

2 MR. HERNANDEZ: They were provided here physically
3 to Mr. Jones, and then there were trouble on the table,
4 they were left on defense counsel table. I took it from
5 the defense counsel table and I left it in the mailbox
6 at MDC for him, with a letter of mine. I was asking him
7 now if he received it. That was placed there on May 20.
8 Have you seen this, with the discovery?

9 THE DEFENDANT: No.

10 MR. HERNANDEZ: I personally filed it there, I
11 dropped it there for his benefit, and he said he has not
12 received it.

13 THE COURT: I will inquire from Mr. Matos, what if
14 anything is happening. Are you sure Mr. Jones that you
15 have not received those?

16 THE DEFENDANT: I am pretty much positive,
17 especially dated May 20. No.

18 THE DEFENDANT: A letter of my mine with the
19 discovery, approximately 100 pages of discovery provided
20 by the government.

21 THE DEFENDANT: No. I'm asking for the documents
22 that have never been served to me by the government to
23 be stricken from the record.

24 THE COURT: I will be talking to Mr. Matos at MDC
25 and find out what happened. So when I discuss this with

1 him I will report that you delivered those as mail
2 matter on the 20 of May.

3 MR. HERNANDEZ: Correct.

4 THE COURT: I will make sure from chambers a
5 proper inquiry is conducted and if he has those
6 documents, maybe he safe kept those.

7 MR. HERNANDEZ: What I usually do is that, this
8 time I didn't because of the situation, but from now on
9 I will. The Court ordered me to produce the documents
10 that they filed prior to December 11 and deliver them to
11 Mr. Jones. What I will do is request for him to come
12 down to show him the documents that I am dropping at the
13 mailbox, because they won't let him go up with the
14 documents within MDC. But can I show him the documents
15 at the visiting room and then deliver them at the
16 mailbox.

17 THE COURT: Mr. Jones, if you receive notice
18 counsel is downstairs waiting for you, make sure that
19 you come down immediately in order to verify to whom the
20 documents are being delivered and where they are safe
21 kept for your access and use.

22 THE DEFENDANT: What I am asking is that the ones
23 that--

24 THE COURT: I gave instructions, and counsel will
25 be taking care of that.

1 THE DEFENDANT: I am talking about being stricken
2 from the record because the rules of the court are not
3 followed. The rules require ---

4 THE COURT: Your request is denied. Anything
5 else?

6 THE DEFENDANT: 28 USC 144, and 455,
7 disqualification and recusal. You were listed in the
8 record as being a witness that I would be calling.
9 Under that section 455 requires that you are ineligible
10 for presiding over the matter because you were a
11 probable witness for the case.

12 THE COURT: That closes the circle and brings us
13 to stage one. I have no clue or idea in terms of the
14 factual scenario what is the personal knowledge that I
15 may have about issues that may come to be in
16 controversy? And Precisely because of that, I was
17 telling you that you cannot simply decide that you can
18 subpoena anyone that you want. That there are legal
19 basis and things that do guide that concept. Actually
20 if you intend to subpoena every single Judge of this
21 court because they are attorneys, they know the law,
22 they can give some legal explanation that you hope and
23 believe that through cross examination you may elicit,
24 we're not here to give legal advice or legal teachings
25 in a legal procedure or trial.

1 THE DEFENDANT: It was just calling legal expert
2 witnesses to determine the jurisdiction of the court,
3 and hash out other issues as to like you just denied, my
4 right to receive documents that are filed.

5 THE COURT: Precisely, and you can rest assured I
6 will not be a witness in your case. I will be presiding
7 Judge in your case. And I want you to have that clear,
8 because disqualifications have stopped here and now by
9 the time this case has reached me. I hope that you come
10 to terms with that.

11 AUSA MORGAN: We are taking about the competency
12 issue, though there was a report by a psychiatrist ---

13 THE COURT: I'm not talking about mental
14 competency at all.

15 AUSA MORGAN: The defendant is saying he is
16 entitled to a hearing. What we don't have clear on the
17 record whether or not there is a challenge to the
18 competency. The United States had its evaluated and the
19 expert came out with the recommendation that he is
20 competent. The defendant is saying he is entitled to a
21 hearing. What we have not had for the record is if he
22 is challenging his own competency. Or unless he is in
23 agreeing with the recommendation with the United States
24 experts that he is competent. I submit if that is the
25 case then there is no need for the competency hearing.

1 But we have not heard whether the not the defendant is
2 challenging his competency.

3 THE COURT: Under the Statute once found competent
4 in essence I do not need to hold a hearing unless
5 competency is challenged. And Mr. Jones, is that what
6 you are doing when you talk about the competency
7 hearing, because if that is so I have not gathered that?

8 THE DEFENDANT: No, heavens no. I was saying from
9 the very beginning when the order was made by Judge
10 Cerezo, I never received a copy of it until the
11 psychologist met with me for the first time.

12 THE COURT: That is fine, that is an order that is
13 told to the psychologist to go and see Mr. Jones. That
14 is water under the bridge. He went, evaluated you and
15 gave a report.

16 THE DEFENDANT: I did not receive a copy of the
17 report, as the psychologist was ordered to do it. It
18 was not the government who ordered it, it was Judge
19 Cerezo and it was clear who ordered it. However, as I
20 told her and I told the First Circuit Court of Appeals
21 because the law says there must be a hearing---

22 THE COURT: The law does not say there has to be
23 a hearing. There has to be a hearing if the report
24 comes out reflecting that the person has some sort of
25 impairment or condition. That is not what your report

1 says. It says that you are competent in your report.
2 So unless you want to challenge that determination of
3 competency or the government decides to do that, by
4 bringing another psychiatrist or psychologist or
5 demanding a subsequent evaluation, that is it, you're
6 competent.

7 THE DEFENDANT: I want to challenge the original
8 order in the first place, since it was based on
9 comments.

10 THE COURT: It has been already denied by the
11 procedural stand of the case.

12 THE DEFENDANT: But he brought it up again. I
13 will take it before the First Circuit. But he wants to
14 play with words ---

15 THE COURT: And rest assured that Judge Lynch will
16 address each issue that you raise. She is very
17 thorough.

18 THE DEFENDANT: I appreciate it.

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1 REPORTER'S CERTIFICATE

2 I, DIANE BREAZ, RPR and Official Court Reporter
3 for the U.S. District Court of Puerto Rico;

4 DO HEREBY CERTIFY that the foregoing transcript
5 is a full, true and correct record of the proceedings
6 taken down by me and later transcribed.

7 I FURTHER CERTIFY that I am in no way interested
8 in the outcome of the case.

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10 S/ DIANE BREAZ

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